

Remarks

The Office Action mailed August 12, 2009 has been received and reviewed. Claims 1, 18, 19, and 20 having been amended, claims 3, 4, and 13 having been cancelled, without prejudice, and claims 29-30 having been added, the pending claims are claims 1, 2, 5-12, and 14-30. Reconsideration and withdrawal of the rejections are respectfully requested.

Support for the amended and new claims can be found throughout the specification, e.g., at page10, line 23, page 12, line 26, and the Examples (each of Applicants' examples includes 61.4% mineral oil, including the mineral oil that is in the SALCARE samples, which are provided as compositions with 50% solids in mineral oil).

Double Patenting Rejection

Claims 1-28 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-73 of copending U.S. application no. 10/728,577. Upon an indication of otherwise allowable subject matter and in the event this rejection is maintained, Applicants will provide an appropriate response.

The 35 U.S.C. §103 Rejection

The Examiner rejected claims 1-3, 5-8, 13-18, 21, and 24-28 under 35 U.S.C. §103 as being unpatentable over WO 2002/066087 (COLOPLAST A/S). The Examiner rejected claims 9-11, 19, 20, 22, and 23 under 35 U.S.C. §103 as being unpatentable over WO 2002/066087 (COLOPLAST A/S) in view of "SALCARE® SC95" by Ciba®. The Examiner rejected claim 12 under 35 U.S.C. §103 as being unpatentable over WO 2002/066087 (COLOPLAST A/S) in view of Brook (U.S. Patent No. 4,902,565). Independent claims 1, 19, and 20 having been amended, these rejections are rendered moot. Insofar as they apply to the presently pending claims, they are respectfully traversed.

In the cited documents, used individually or in any combination, there is no teaching or suggestion of the use of mineral oil in an absorbent polymer composition (along with a hydrophobic organic polymer matrix and hydrophilic organic microparticles) in an amount

effective to render the composition sufficiently nonadherent such that when coated on a substrate it displays a 180° peel strength from stainless steel of less than 1 N/cm. Although COLOPLAST mentions the use of mineral oil in the Examples to prepare adhesive compositions, there is no teaching or suggestion of nonadherent compositions including mineral oil and hydrophilic organic microparticles. Specifically, in the COLOPLAST examples, a “carrier oil” is removed during the preparation of the adhesive composition of Example 1; mineral oil is present in Adhesive A1 and control adhesive A2 in Example 2 in an amount of 25%; control Adhesive A3 includes 40% mineral oil; and assuming mineral oil is present in the Microcolloid DP199-9086 of Example 3, the maximum amount of mineral oil that could be present in the adhesive composition is calculated to be 16.4% (122 parts of 45% solids or 54.9 parts, out of a total of 334 parts). Note that control Adhesives A2 (25% mineral oil) and A3 (40% mineral oil) include no microparticles). There is no peel data for Example 3, but it is stated that the foamed adhesive had “excellent adhesive properties” (page 26 of COLOPLAST). The 90° peel from steel plates is provided for an example of the invention (A1) in Table 5. This value is 14.2 N per 25 mm, which calculates (x 10 mm/1 cm) to 5.7 N/cm. Although 90° peel values are about 70% of the 180° peel values (see, for example, Exhibit A: page 2 of <http://www.safetylabel.com/pdfs/3m7908.pdf>, previously submitted), the adhesive properties of Adhesive A1 is still significantly more than Applicants’ claimed nonadherent compositions (with a 180° peel strength from stainless steel of less than 1 N/cm). There are no examples with mineral oil and microparticles that are nonadherent, as recited in Applicants’ claims.

At the bottom of page 11 of the Office Action, there are several statements that are not clear and/or are incorrect. First, it is stated that “applicant did not show the peel strength of the polymer composition by itself” – this is not true. The Examiner’s attention is directed to Applicants’ Examples at page 25, lines 15-21. Both compositions in the form of gel slabs and compositions coated on fabrics demonstrated 180° peel strength from stainless steel of less than 1 N/cm. Second, it is stated in the Office Action that “peel strength disclosed by the reference is that of the polymer composition only” – this is not necessarily true. Although the Peel test at page 24 does not specify the construction of the tested samples, a probable interpretation is that

the adhesive is coated on a substrate for the Peel test. The Examiner's attention is directed to the top of page 23 of COLOPLAST ("dried adhesives were ... laminated onto the permeable PU backing"). Third, it is stated that "the claimed higher peel strength . . . means less adhesiveness" – this is not true. Higher peel strengths mean more adhesiveness. Applicants assume this was simply an inadvertent typographical error. If not, however, clarification is requested. Finally, in the carryover sentence from page 11 to page 12 of the Office Action, it is stated that "the composition will permeate through the pores of the substrate and become less adherent." It is not clear what is meant by this. Is the intended meaning that adhesion of a composition coated on a porous substrate is less than that of a slab of the composition because of reduced contact area with the surface to which it is adhered? Clarification is requested. If so, Applicants submit that a reduction in the adhesiveness of Adhesive A1 from a 90° peel of 5.7 N/cm to a 180° peel of less than 1 N/cm is a significant reduction that would not necessarily be realized by coating the Adhesive A1 on an apertured substrate. In fact, Applicants' composition in the form of a slab and coated on a fabric demonstrate a difference of only 0.1 N/dm.

Withdrawal of these rejections is respectfully requested.

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Summary

It is respectfully submitted that the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives at the telephone number listed below if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that this paper is being transmitted via the U.S. Patent and Trademark Office electronic filing system in accordance with 37 CFR §1.6(a)(4) to the Patent and Trademark Office addressed to the Commissioner for Patents, Mail Stop AF, P.O. Box 1450, Alexandria, VA 22313-1450, on this 8th day of October, 2009.

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